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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,131	03/31/2004	Ralf Ehret	13906-180001 / 2004P00204	9171
32864	7590	03/17/2008	EXAMINER	
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			CARDENAS NAVIA, JAIME F	
			ART UNIT	PAPER NUMBER
			4182	
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			03/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/815,131

Applicant(s)

EHRET ET AL.

Examiner

Jaime F. Cardenas-Navia

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Introduction

1. This **NON-FINAL** office action is in response to applicant's submission filed on March 31, 2004. Currently, claims 1-9 are pending.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "122" and "172" have both been used to designate "Resource Planning Application" in Figure 1. If in fact, "122" and "172" refer to the same "Resource Planning Application," then all instances of these references characters in the specification should also be amended. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. **Claim 8 is objected to** because of the following informalities: In the last line of claim 8, “the specific time” should be changed to “the specific time slot” for proper antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claim 9 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 9, "the resource planning application" lacks antecedent basis.

Examiner recommends that a first instance of "resource planning application" be added or that "the resource planning application" be amended.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-8 are rejected** under 35 U.S.C. 102(e) as being anticipated by Hedlund et al. (US 2004/0267591 A1).

Regarding claim 1, Hedlund teaches a method of scheduling use of a resource (Abstract), the method comprising:

receiving a first scheduling request for a resource, the first scheduling request specifying that the resource is to be scheduled for a requested amount of time sometime within a requested time period, the requested amount of time being less than a maximum time amount that the resource is available during the requested time period (par. 27, 34, 41, 49, 50);

receiving a second scheduling request for the resource that refines the first scheduling request, the second scheduling request specifying that a portion of the requested amount of time is to be scheduled in a specific time slot within the requested time period (par. 37, 52);

scheduling in an electronic schedule the portion of the requested amount of time in the specific time slot (fig. 1, 4, par. 40); and

scheduling in the electronic schedule a remaining portion of the requested amount of time within the requested time period except within the specific time slot (fig. 1, 4, par. 40, 54).

Regarding claim 2, Hedlund teaches wherein the resource is a person that provides a service requested by the first scheduling request (Abstract).

Regarding claim 3, Hedlund teaches wherein the first scheduling request specifies that the person is to be scheduled for a predetermined number of hours within the requested time period that includes a specific date range (par. 27, 34, 41, 49, 50).

Regarding claim 4, Hedlund teaches wherein the second scheduling request refines the first scheduling request by requesting that a portion of the predetermined number of hours from the first scheduling request is to be scheduled for the specific time slot on a specific date within the date range (par. 37, 52).

Regarding claim 5, Hedlund teaches wherein the first scheduling request specifies that the resource is to be scheduled for a predetermined number of hours within the requested time period that includes a specific date range (par. 27, 34, 41, 49, 50).

Regarding claim 6, Hedlund teaches wherein the second scheduling request refines the first scheduling request by requesting that a portion of the predetermined number of hours from the first scheduling request is to be scheduled for the specific time slot on a specific date within the date range (par. 37, 52).

Regarding claim 7, Hedlund teaches wherein scheduling in the electronic schedule is done to determine a utilization of the resource (fig. 1, par. 30, 50).

Regarding claim 8, Hedlund teaches a computer program product tangibly embodied in an information carrier, the computer program product including instructions that when executed cause a processor to perform operations (fig. 1, 1A, par. 63) comprising:

receive a first scheduling request for a resource, the first scheduling request specifying that the resource is to be scheduled for a requested amount of time sometime within a requested time period, the requested amount of time being less than a maximum time amount that the resource is available during the requested time period (par. 27, 34, 41, 49, 50);

receive a second scheduling request for the resource that refines the first scheduling request, the second scheduling request specifying that a portion of the requested amount of time is to be scheduled in a specific time slot within the requested time period (par. 37, 52);

schedule in an electronic schedule the portion of the requested amount of time in the specific time slot (fig. 1, 4, par. 40); and

schedule in the electronic schedule a remaining portion of the requested amount of time within the requested time period except within the specific time (fig. 1, 4, par. 40, 50).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 9 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Hedlund et al. (US 2004/0267591 A1) as applied to claim 8 above, further in view of Conmy (US 2001/0014867 A1).

Regarding claim 9, Hedlund does not teach wherein the executable instructions, when executed, further cause the resource planning application to receive all time slots in which the resource is available within the requested time period.

Conmy teaches wherein the executable instructions, when executed, further cause the resource planning application to receive all time slots in which the resource is available within the requested time period (fig. 1, 3, 5-9, par. 40, 41).

The inventions of Hedlund and Conmy pertain to dynamic scheduling of resources. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Conmy does not teach away from or contradict Hedlund, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the teaching of Hedlund of storing and using past schedules

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(par. 37), receiving and using employee attributes and preferences for scheduling (par. 50, 52), and graphing the available time of resources (fig. 4).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Virta (US 2005/0065832 A1) teaches reserving an appointment of a certain amount of time within a larger amount of time and finalizing the appointment in the schedule as the scheduling of other appointments contracts the larger amount of time.

Clark et al. (US 2003/0004773 A1) teaches collecting schedules and combining schedules to identify available time for an appointment.

Doss et al. (US 7,318,040 B2) teaches predicting and adjusting workforce calendars.

Mahapatro (US 6,571,215 B1) teaches receiving resource and assignment information and scheduling resources by assigning them to tasks.

Barto et al. (US 7,069,097 B1) teaches dynamically scheduling the use of resources for a time period within a time window.

Conmy et al. (US 6,101,480) teaches collecting user profiles including calendar information for use in determining free time for appointments.

Goto et al. (US 2001/0042001 A1) teaches receiving employee and work management information to generate work schedules.

Howie et al. (US 5,093,794) teaches dynamic scheduling of resources to jobs using current data and addressing bottlenecks.

Benbassat et al. (US 6,985,872 B2) teaches assigning human resources to service tasks, taking into account past demand, actual service operations, region, and long and short term demand.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime F. Cardenas-Navia whose telephone number is (571)270-1525. The examiner can normally be reached on Mon-Thur, 9:30AM - 8:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on (571) 272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 3, 2008

/Jaime F Cardenas-Navia/
Examiner, Art Unit 4182

/Thu Nguyen/
Supervisory Patent Examiner, Art Unit 4182